

**House Ways and Means Health Subcommittee  
May 9, 2012**

**Impact of the DMEPOS competitive bidding program on beneficiaries, suppliers,  
and Medicare expenditures and the implications for program expansion**

**Statement for the Record of Paul Tobin  
President and CEO  
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## **Introduction**

My name is Paul Tobin and I am President and Chief Executive Officer of the United Spinal Association. I previously served as the Association's deputy executive director and was a member of its Board of Directors from 1995 to 1996. I have also held a variety of other managerial positions at the Association including hospital services officer, director of special projects, and group director of benefit services. I earned my Bachelor of Science degree in civil engineering in 1991 from Manhattan College. I later attended the U.S. Navy Officer Candidate School in Newport, RI, from which I was commissioned an ensign and joined the Civil Engineering Corps. After sustaining a spinal cord injury in August 1993, I underwent rehabilitation at the Castle Point Veterans Affairs Medical Center in New York. I have since earned a Master degree in Social Work at Fordham University and am taking coursework for a Master degree in Public Health Administration at Columbia University. My statement focuses on the impact the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) competitive bidding program has on the spinal cord injuries and disorders community.

United Spinal Association is a national non-profit organization founded by paralyzed veterans in 1946 and headquartered in New York. United Spinal has since provided service programs and advocacy to improve the quality of life of individuals with disabilities across the life span living with spinal cord injuries and disorders (SCI/D) such as multiple sclerosis, amyotrophic lateral sclerosis, post-polio syndrome and spina bifida. There are more than a million individuals throughout the country with SCI/D and to whom the Association's work is dedicated. United Spinal has more than 35,000 members and 68 chapters and support groups nationwide. Throughout its history, United Spinal Association has devoted its energies, talents and programs to improving the quality of life for these Americans and for advancing their independence. United Spinal Association is also a VA-authorized veterans service organization serving veterans with disabilities of all kinds.

## **Consumer Access to Quality Products and Services**

Individuals with disabilities rely on access to quality products and services that enable us to be contributing members of society by being employed and active in our communities. Access to the right products and services fosters our independence and equality in the pursuit of happy productive lives and dreams.

United Spinal Association has been monitoring the Medicare DMEPOS competitive bidding program through the roll-out and implementation of the initial Round One that occurred in July 2008 through today. The Round One Rebid went into effect last January for nine areas across the country: Cincinnati and Cleveland, Ohio; Charlotte, North Carolina; Dallas, Texas; Kansas City in Kansas and Missouri; Miami and Orlando in Florida; Pittsburgh, Pennsylvania and Riverside, California. United Spinal has heard numerous complaints from beneficiaries regarding the Round one Rebid and its impacts on their preferred equipment and services from their trusted providers. Some have had difficulty finding a local equipment or service provider. Others have experienced delays in obtaining medically required equipment and services or longer than necessary hospital stays due to equipment delays before discharging patients to home-based care. Others have bemoaned their fewer choices when selecting equipment or providers and the loss of

one-stop shopping and the quality of services. They also pointed out the confusing or incorrect information Medicare provided to them about the changes while others felt totally ill-prepared. The lessons from the Round One Rebid raise serious concerns about what will result in Round Two next July when 91 additional areas will be affected across the west, midwest, south and highly populated northeast regions of the United States. Cities included in Round Two include the highly populated Chicago, Los Angeles and New York competitive bidding areas (CBAs) all of which had to be subdivided into multiple CBAs. As a New York resident, I am concerned about the impact on consumer access in the New York CBA which is divided into 5 subcategories and includes New Jersey and Pennsylvania. The subdivisions are: Bronx-Manhattan, NY; Nassau-Brooklyn-Queens, NY; northwest NYC metro, NJ; northern NYC metro, NY; southern NY metro, NY-NJ; and, Suffolk County, NY. I can personally speak to the hours that I spend stuck in traffic getting from point A to point B and this is a concern for me and others within the disability community that rely on their durable medical equipment providers and their assistive technology professionals to reach them in a timely manner. A consumer in the Miami CBA informed us that she cannot move independently within her own house and had to travel 60 miles to Miami to have her wheelchair fixed because there were no contract providers in her immediate area. Additionally, consumer access is affected by the competitive bidding program by the fact that small businesses may be unable to withstand the pricing model, leaving fewer suppliers in the marketplace from which consumers can obtain needed equipment and services over time, this will result in higher prices for the consumer service resulting in higher prices for the consumer and larger companies consuming more of the marketplace.

For the Round One Rebid, 356 suppliers were awarded contracts to provide durable medical equipment and supplies, including Standard (Power and Manual) Wheelchairs, Scooters, and Related Accessories to Medicare beneficiaries in the 9 Round One Rebid competitive bidding areas. Of the estimated 47 million Medicare beneficiaries, about 2 million beneficiaries that are dependent on the competitive bidding program for coverage of products and services reside in the nine competitive bidding areas.<sup>1</sup> United Spinal Association will be sure to monitor closely the number of contract suppliers that are available to Medicare beneficiaries with disabilities under Round Two of the program in 91 additional areas.

Of 127,466 inquiries in 2011 that CMS claims it received, only 151 were classified as complaints. CMS states that their pre- and post- implementation beneficiary satisfaction survey did not reveal systemic beneficiary access or satisfaction problems with the competitive bidding program. The agency also tracked health outcomes, including hospitalizations, physician visits and deaths for beneficiaries potentially affected by the program. However, the data that needs to be analyzed are the same consumer population sets pre- and post- bidding and health outcomes data over the long-term looking at how that population is being impacted. Moreover, when is an inquiry an inquiry versus a formal complaint? If a consumer inquires with CMS about why they are having difficulties under the new program finding needed equipment and services, should that not be registered as a complaint?

Recently, CMS' Actuary Office found that Round 1 has reduced program expenditures by \$202 million in 2011. CMS expects the competitive bidding program to save \$43 billion over the next

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<sup>1</sup> GAO Report, 'Medicare: Review of The First Year of CMS' Durable Medical Equipment Competitive Bidding Program's Round 1 Rebid', p.3.

10 years, including saving beneficiaries \$17 billion, referring to beneficiary co-pays. However, these numbers do not take into consideration the health outcomes data of Medicare beneficiaries over the long-term or the increase in insurance premiums. Individuals with disabilities who are on Medicare, in many cases, do not call the federal government when a problem arises with their equipment or services. Most consumers are concerned they might lose their government benefits and are more likely to call their supplier or a family member or caregiver for assistance.

Another concern that I have is the implementation of the national mail-order program next July due to the high incidence of diabetes within the SCI community. According to Dr. Jerome Stenehjem, medical director of the Sharp Rehabilitation Center, San Diego, California, “[p]eople with spinal cord disorders are more prone than most to developing type 2 diabetes.” A recent survey published in the Journal of Spinal Cord Medicine states that overall prevalence of diabetes in individuals with an SCI/D was 20% (3 times higher than in the general population).<sup>2</sup> United Spinal Association will continue to monitor closely the impact that the competitive bidding program has on the SCI/D community.

A report published in May by the American Journal of Physical Medicine and Rehabilitation found that over 50 percent of wheelchair users experienced a breakdown in a six-month period. “It is possible that this increase in the number of repairs is the result of a decrease in wheelchair quality resulting from changes in reimbursement policies .....” write the researchers, led by Dr Michael Boninger of University of Pittsburgh's Department of Physical Medicine and Rehabilitation. They also found a significant increase in wheelchair breakdowns causing health and safety consequences.<sup>3</sup>

### **Consumer Education**

Medicare needs to continue to work at educating the consumer about how best to find a supplier and what a grandfathered supplier is. CMS admits that the Round One Rebid did not start cleanly relative to information accuracy on the CMS website about contract suppliers and what products they provided to beneficiaries. United Spinal looks forward to seeing an improved roll-out for Round Two where far more beneficiaries will be affected. I would also like to draw attention to the wheelchair repair and replacement regulations. Permanent residents within a CBA are required to obtain replacement of all items subject to competitive bidding from a contract supplier, including replacement of base equipment and the replacement of parts or accessories for base equipment that is being replaced for reasons other than servicing of the base equipment (such as the need for a different piece of equipment due to the beneficiary’s weight or equipment usage). Without a strong education initiative, beneficiaries in need of wheelchair repair and replacement may face significant access challenges to appropriate equipment and services.

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<sup>2</sup> J Spinal Cord Med. 2006; 29(4): 387–395. “Diabetes Mellitus in Individuals With Spinal Cord Injury or Disorder”

<sup>3</sup> Am J Phys Med Rehabil 2012;91:00Y00. “Increases in Wheelchair Breakdowns, Repairs, and Adverse Consequences for People with Traumatic Spinal Cord Injury”

## CONCLUSION

On behalf of the more than one million individuals throughout the country with SCI/D (spinal cord injuries and disorders) such as multiple sclerosis, amyotrophic lateral sclerosis, post-polio syndrome and spina bifida, I urge this committee to look closely at how the Centers for Medicare and Medicaid Services is gathering data on the impact this program has on all consumers, including people with disabilities and United Spinal Association will continue to monitor how the program is impacting consumers. As the Government Accountability Office noted in its testimony:

*Although the first year of the CBP round 1 rebid has been completed, it is too soon to determine its full effects on Medicare beneficiaries and DME suppliers. Although we found that the round 1 rebid was, in general, successfully implemented, our findings are based on the limited data available at the time we did our study and for only the first year of the rebid's contract period. While the prevalence of grandfathered suppliers for some CBP rental items may have ameliorated beneficiary access concerns during the first year, the number of grandfathered suppliers will continue to decrease as rental agreements expire. Likewise, it is not yet known whether any change in the number of subcontracting suppliers will affect beneficiary access....it is important to continue to monitor changes in the number of suppliers serving CBP-covered beneficiaries and trends in utilization of the CBP-covered DME.<sup>4</sup>*

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<sup>4</sup> GAO Testimony, 'Medicare: The First Year of the Durable Medical Equipment Competitive Bidding Program Round 1 Rebid', p.6.

